

REGIONAL WATER QUALITY CONTROL BOARD - SAN FRANCISCO BAY  
BOARD MEETING MINUTES  
February 19, 2003

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Item 1 - Roll Call and Introductions

The meeting was called to order on February 19, 2003 at approximately 9:03 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: John Muller, Chair; Clifford Waldeck, Vice-Chair; Kristen Addicks; Josephine De Luca; Shalom Eliahu; John Reininga; William Schumacher; and Mary Warren.

Board member absent: Doreen Chiu [Note: Mrs. Chiu arrived at 9:10 a.m.].

Item 2 - Public Forum

There were no public comments.

Item 3 - Minutes of the January 22, 2003 Board Meeting

The Board unanimously approved the minutes.

Item 4 - Chairman's, Board Members' and Executive Officer's Reports

John Muller thanked staff for the written Executive Officer's Report.

Item 5 - Uncontested Calendar

Ms. Barsamian said there was supplemental material for Item 5C. She recommended adoption of the uncontested calendar.

Motion: It was moved by Mrs. De Luca, seconded by Mr. Eliahu, and it was unanimously voted to adopt the uncontested calendar as recommended by the Executive Officer.

[Mrs. Chiu arrived at 9:10 a.m.]

Item 6 - City of Pacifica, Calera Wastewater Treatment Plant, Pacifica, San Mateo County - Hearing to Consider Administrative Civil Liability for Discharge of Untreated Wastewater to Waters of the State and Lack of Laboratory Certification

Ms. Barsamian said the City of Pacifica signed a waiver of its right to a hearing on the proposed ACL. She noted no Board action was necessary. Ms. Barsamian said the Administrative Civil Liability was in the amount of \$125,033. She said the discharger proposed to use \$115,033 for a supplemental environmental project.

Item 7 – Romic Environmental Technologies Corporation, 2081 Bay Road, East Palo Alto, San Mateo County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Ms. Barsamian said Romic Environmental Technologies Corporation signed a waiver of its right to a hearing on the proposed MMP. She noted no Board action was necessary. Ms. Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$51,000. She noted \$33,000 would be used for a supplemental environmental project.

Item 8 – Sonoma Valley County Sanitation District, Wastewater Treatment Plant, Sonoma County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Ms. Barsamian said the Sonoma Valley County Sanitation District signed a waiver of its right to a hearing on the proposed MMP. She noted no Board action was necessary. Ms. Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$51,000. She noted \$33,000 would be used for a supplemental environmental project.

Item 9 – City of San Mateo Wastewater Treatment Plant, San Mateo County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Ms. Barsamian recommended this item be continued.

Item 10 – Napa Sanitation District, Napa County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Ms. Barsamian recommended this item be continued.

Item 11 – Rodeo Sanitary District, Sewage Treatment Plant, Rodeo, Contra Costa County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Ms. Barsamian said Rodeo Sanitary District signed a waiver of its right to a hearing on the proposed MMP. She noted no Board action was necessary. Ms. Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$33,000. She noted \$24,000 could be used for a supplemental environmental project.

Item 12 – Alameda Countywide Clean Water Program, Alameda County – Reissuance of NPDES Permit to Discharge Stormwater Runoff from Municipalities

Item 13 – Contra Costa Clean Water Program, Contra Costa County – Amendment of Order 99-058, NPDES Municipal Stormwater Permit

Item 14 – San Mateo Countywide Stormwater Pollution Prevention Program, San Mateo County – Amendment of Order 99-059, NPDES Municipal Stormwater Permit

Mr. Muller reopened the public hearing on the tentative orders for Items 12, 13, and 14 dealing with stormwater.

It is noted: (1) all three tentative orders include an updated new development and redevelopment provision, (2) the tentative orders for the Contra Costa Clean Water Program and the San Mateo Countywide Stormwater Pollution Prevention Program amend existing stormwater permits, (3) the tentative order for the Alameda Countywide Clean Water Program reissues an entire stormwater permit.

Ms. Barsamian said Board members who did not attend the December 18, 2002 or January 22, 2003 Board meetings had read transcripts of the public hearings conducted at the meetings.

Ms. Barsamian said staff's presentation would cover changes that were made to the three tentative orders in response to written and oral comments received, including comments received at stakeholder meetings.

Bruce Wolfe said the tentative order for Alameda County updates the six components in the County's present stormwater permit. He said the tentative order requires a pesticide reduction plan and a multi-year monitoring plan be implemented.

Mr. Wolfe said the updated new development and redevelopment provision requires that developments incorporate: (1) source control measures, (2) site design measures, and (3) treatment control measures, to the maximum extent practicable. He gave examples of the three types of measures.

Mr. Wolfe said new development and redevelopment projects are categorized based on size: Group 1 includes projects that create 1 acre or more of impervious area and Group 2 includes projects that create 10,000 square feet or more of impervious area. He said implementation of stormwater provisions for Group 1 projects would begin February 2005. He said implementation of stormwater provisions for Group 2 projects would begin August 2006. He said permittees might take local development patterns into account and propose an alternative Group 2 definition.

In response to a question from Mrs. Warren, Mr. Wolfe said the updated provision does not apply to projects that are already constructed.

In response to a question from Mr. Schumacher, Mr. Wolfe described source control measures, site design measures, and treatment measures that could be developed at a gas station sized as a Group 2 project.

Mr. Schumacher asked about treating stormwater in sanitary sewer systems. Mr. Wolfe said such treatment is an option, but noted spikes in flow during wet weather periods might cause problems.

In response to a question from Mr. Schumacher, Mr. Wolfe said treatment vaults might be used in small projects to slow the velocity of runoff and to treat pollutants.

Mr. Eliahu asked whether a developer could construct treatment measures at a location that is not the project site. Mr. Wolfe said construction at offsite locations is allowed if installation of measures at a project site is impracticable.

Mr. Wolfe described alternative compliance programs that stormwater programs or permittees might develop.

Mr. Schumacher said both sewer and stormwater are treated in San Francisco's wastewater facilities.

Mr. Wolfe and Ms. Barsamian said it is very costly to build facilities with enough capacity to treat both sewage and stormwater.

Mrs. Addicks noted permittees might set up an alternative Group 2 project definition and develop an alternative compliance program.

Mr. Wolfe said permittees would submit annual reports to the Regional Board that would list projects that were allowed to use offsite mitigation or that were exempted for the updated provision.

Mr. Wolfe said permittees would be required to prepare hydrograph modification management plans. He said the plans would be submitted by May 2005 to the Regional Board, and said the plans would help in the control of peak stormwater runoff and runoff volume.

In response to a question from Mr. Eliahu, Mr. Wolfe said hydrograph modification plans could be used to identify locations for offsite mitigation projects. He said the plans would help in the management of additional runoff in a watershed.

Mr. Wolfe discussed requirements in the updated provision for the operation and maintenance of treatment measures. He said permittees would be required to inspect some treatment measures every year. He said permittees also would be required to work with vector control agencies.

Mr. Eliahu asked if treatment measures help control the discharge of sediment. Mr. Wolfe answered affirmatively, and said treatment measures also help control pollutants that bind to sediment.

In response to a question from Mr. Eliahu, Mr. Wolfe said some municipalities might treat urban runoff in wastewater treatment plants during summer months.

Mrs. Addicks thought the threshold of Group 2 projects at 10,000 square feet of impervious area was reasonable. She said future permits might include a lower threshold.

Mr. Wolfe said the standard “maximum extent practicable” has become more stringent over time. He said new technologies will continue to be developed and permittees will gain experience in working with treatment measures.

Mrs. Addicks spoke in favor of coordinating the terms of all municipal stormwater permits in the Bay Area. Ms. Barsamian concurred.

Mrs. De Luca expressed support for the updated new development and redevelopment provision. She acknowledged the need to work around municipal budget constraints.

In response to a question from Mrs. Warren, Mr. Wolfe said flood control districts generally are responsible for protecting creeks. He said hydrograph modification plans could be used at the project development stage to ensure less creek maintenance will be required once projects are constructed.

Mrs. Warren asked what enforcement actions would be taken if permittees violate stormwater permits.

Mr. Wolfe said when staff find problems in their review of annual reports, they try to work with permittees to find remedies.

Ms. Barsamian said the Board also might review annual reports, and thereby have a chance to look over alternative compliance programs and exemptions.

Mrs. Warren asked what would happen if staff reviewed annual reports and found gross violations.

Ms. Barsamian said staff could issue a notice of violation letter or request that a fine be levied.

Mrs. Warren said she would have a problem imposing fines in the near future because of municipal budget constraints.

Mrs. Addicks noted the importance of enforcing stormwater permits.

Ms. Barsamian said stormwater controls for Group 1 projects would not be implemented before February 2005.

Mr. Waldeck thought it was important for staff to work with the Bay Area Stormwater Management Agencies Association to develop implementation guidelines.

Ms. Barsamian said many large developers currently implement stormwater controls.

Mr. Muller asked about stormwater measures that will be developed in the Bay Bridge project. Mr. Wolfe said, as part of an alternative compliance project, Caltrans will construct treatment measures in the toll plaza area.

Ms. Barsamian said a San Diego County Superior Court judge recently upheld a municipal stormwater permit that is similar to the tentative orders under consideration. Ms. Dickey and Ms. Won discussed the San Diego case.

Mr. Schumacher said developers might choose to discharge stormwater into sewer systems instead of constructing detention basins and other treatment measures.

In response to a question from Ms. Barsamian, Mr. Reininga said developers have constructed detention basins in large shopping center projects for the last decade. He said the updated new development and redevelopment provision gives developers greater flexibility by allowing them in some cases to develop treatment measures at offsite locations.

James Scanlin, Program Manager, Alameda Countywide Clean Water Program, thanked Board members for the attention given to stormwater issues over the past several months. He said the stakeholder meetings had been very productive. He appreciated the fact that the updated provision allows for stream restoration work as part of an alternative compliance program.

Gary Grimm, Counsel for Alameda Countywide Clean Water Program, thanked the Board for holding extensive public hearings. He said the schedule to implement a dioxin reduction plan had been reduced from 3 ½ years to 2 years.

Mrs. Addicks said it was important to work together to reduce dioxin levels in the Bay.

Shana Lazerow, WaterKeepers Northern California, asked for more time to comment on recent changes to the updated new development and redevelopment provision. She objected to the fact that exemptions could be given to some transit village developments, projects on brownfield sites, and housing projects for low and moderate income households. She objected to the 10,000 square foot threshold for Group 2 projects.

Mr. Reininga asked Ms. Lazerow whether she participated in the stakeholder process.

Ms. Lazerow said she did not because WaterKeepers does not have enough staff to participate such meetings. In response to a question from Mrs. Addicks, Ms. Lazerow said it is helpful when documents are made available electronically.

Mr. Reininga asked if there should be a public comment period on the tentative orders due to recent changes. Ms. Won and Ms. Dickey said federal regulations and CEQA do not require a second written public comment period under the present circumstances.

Mrs. Addicks hoped that projects exempted from stormwater requirements would include some types of stormwater control activities anyway.

Ms. Barsamian said exemptions would be granted only if developers show that onsite treatment measures are impracticable and the cost to participate in alternate offsite treatment would create an unfair burden.

Jonathan Shardlow, National Resources Defense Council, objected to the fact that the threshold for Group 2 projects had been raised from 5,000 square feet to 10,000 square feet. He also objected to granting some projects exemptions from stormwater requirements.

Mr. Reininga asked whether Mr. Shardlow participated in the stakeholder process. Mr. Shardlow said he recently had been assigned to the case and had not participated.

Karl Malamud-Roam, Mosquito and Vector Control Association of California, said his organization chose to take a neutral stance on the updated new development and redevelopment provision. He expressed concern about treatment measures and potential public health threats. He said outbreaks of West Nile Virus in California might occur during the summer months. He said discretionary wetland projects might need to be delayed and the maximum extent practicable standard might need to be reevaluated. He hoped treatment measures would be adequately maintained.

Mrs. Warren asked staff about the maintenance of detention ponds.

Ms. Barsamian said each year permittees would identify a list of treatment measures that they would inspect and the list would be included in annual reports.

Kimia Mizany, Save the Bay, urged the Board to adopt the updated new development and redevelopment provision.

Donald Freitas, Manager, Contra Costa Clean Water Program, discussed the collaborative process staff and stakeholders used to resolve stormwater issues. He expressed interest in continuing the process. He said Contra Costa County would be able to work with the updated provision.

Mrs. Warren complimented Mr. Freitas on his willingness to work with staff.

Laura Hoffmeister, Council Member, City of Concord, said the stakeholder process had been helpful and suggested it continue.

Morty Prisament, Senior Planner, City of Richmond, thought there should be greater coordination between people involved in planning developments and people involved in controlling post-construction runoff.

Bob Davidson, Program Coordinator, San Mateo Countywide Stormwater Pollution Prevention Program, was appreciative of the stakeholder process. He said San Mateo County would be able to work with the updated provision.

Motion: It was moved by Mrs. De Luca, seconded by Mrs. Warren, and it was unanimously voted to close the public hearing on Items 12, 13, and 14.

Mrs. Addicks said she had not been able to attend the January Board meeting, but she had read the transcript. She noted stormwater presents an enormous challenge and hoped the collaborative process continues.

Mrs. Addicks, Mrs. Warren, Mr. Schumacher, Mr. Reininga, and Mr. Muller congratulated everyone involved in the stakeholder process.

Bruce Wolfe and Ron Gervason introduced staff who worked on the tentative orders: Myriam Zech, Keith Lichten, Jan O'Hara, Habte Kifle, Christine Boschen, Bill Hurley, Dale Bowyer, and Susan Gladstone.

Ms. Barsamian recommended adoption of the tentative order for the Alameda Countywide Clean Water Program, as supplemented.

Motion: It was moved by Mr. Waldeck, seconded by Mrs. De Luca, and it was voted to adopt the tentative order as supplemented and recommended by the Executive Officer.

Roll Call:

Aye: Mrs. Addicks, Mrs. Chiu, Mrs. De Luca, Mr. Eliahu, Mr. Reininga, Mr. Schumacher, Mr. Waldeck, Mrs. Warren, and Mr. Muller.

No: None.

Motion passed 9 – 0.

Ms. Barsamian recommended adoption of the tentative order for the Contra Costa Clean Water Program, as supplemented.

Motion: It was moved by Mrs. Addicks, seconded by Mrs. Warren, and it was voted to adopt the tentative order as supplemented and recommended by the Executive Officer.

Roll Call:

Aye: Mrs. Addicks, Mrs. Chiu, Mrs. De Luca, Mr. Eliahu, Mr. Reininga, Mr. Schumacher, Mr. Waldeck, Mrs. Warren, and Mr. Muller.

No: None.

Motion passed 9 – 0.

Ms. Barsamian recommended adoption of the tentative order for the San Mateo Countywide Stormwater Pollution Prevention Program, as supplemented.

Motion: It was moved by Mr. Reininga, seconded by Mrs. Addicks, and it was voted to adopt the tentative order as supplemented and recommended by the Executive Officer.

Roll Call:

Aye: Mrs. Addicks, Mrs. Chiu, Mrs. De Luca, Mr. Eliahu, Mr. Reininga, Mr. Schumacher, Mr. Waldeck, Mrs. Warren, and Mr. Muller.

No: None.

Motion passed 9 – 0.

#### Item 17 – Closed Session – Litigation

At approximately 11:40 a.m. the Board went into closed session.

At approximately 12:05 p.m. the Board reconvened in open session. Dorothy Dickey reported the Board authorized the Executive Officer to enter into a settlement, on its behalf, in *Pacific Custom Materials, Inc. v. California Regional Water Quality Control Board for the San Francisco Bay Region*.

#### Adjournment

The meeting was adjourned at approximately 12:10 p.m.

